

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE REGULAR SESSION OF THE
FOUNTAIN HILLS TOWN COUNCIL
October 1, 2009**

* **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Schlum called the meeting to order at 6:30 p.m. in the Town Hall Council Chambers.

* **INVOCATION** – Leanne Gratz, the Coordinator of Pastoral Care at the Church of the Ascension

* **ROLL CALL**

Present for roll call were the following members of the Fountain Hills Town Council: Mayor Schlum, Councilmember Contino, Councilmember Leger, Councilmember Brown, Councilmember Hansen, Vice Mayor Archambault and Councilmember Dickey. Town Manager Rick Davis, Town Attorney Andrew McGuire and Town Clerk Bev Bender were also present.

Mayor Schlum noted that Councilmember Contino will be celebrating his birthday on October 5th and wished him a happy birthday.

* **MAYOR'S REPORT**

- (i) Rotation of the Vice Mayor position to Councilmember Cassie Hansen. Pursuant to Section 2-2-2 of the Fountain Hills Town Code, each member of the Council, except the Mayor, shall serve an eight-month term as Vice Mayor and shall perform the duties of the Mayor during his absence or disability.

Mayor Schlum stated that according to the provisions of the Town Code, each member of the Council, except the Mayor, shall serve an eight-month term as Vice Mayor and shall perform the duties of Mayor during his absence or disability. He thanked Vice Mayor Archambault for the time he served in that capacity and the Vice Mayor said that he would relinquish his position as Vice Mayor at this time.

The Mayor and Council congratulated newly appointed Vice Mayor Hansen.

- (ii) The Mayor will read proclamations:

- a) Declaring October 5 – 9, “Customer Service Week”

The Mayor read a proclamation declaring October 5 - 9, 2009 "Customer Service Week" in the Town of Fountain Hills.

- b) Declaring October 2009, “Domestic Violence Awareness Month”

The Mayor read a proclamation declaring October 2009 "Domestic Violence Awareness Month" in the Town of Fountain Hills.

- c) Declaring October, 2009, “McDowell Mountain Month”

The Mayor read a proclamation declaring October 2009 "McDowell Mountain Month" in the Town of Fountain Hills.

* **SCHEDULED PUBLIC APPEARANCES**

- (i) Presentation by local artist, Judi Yates, of a plan for a proposed Downtown Art Fair and Farmers Market one day a week.

Judi Yates, a local artist in Town, addressed the Council and highlighted a proposed Downtown Art Fair and Farmers Market series of events that would take place in Fountain Hills. She distributed photos for the Council to review (copies are available in the office of the Town Clerk) and said that she has been working with the Town on a vision that she believed would work. She noted that she and her husband had spent a lot of time in Santa Fe, a huge artists' community, and said that one of Santa Fe's strong suits was their local artists. She reported that for over 30 years they had 17 spots on the Plaza and there was a waiting list a mile long for artists to obtain those spots. She reported that they utilized the spots on a daily basis and their contracts ran for five years. She said that Santa Fe was kind enough to give her a copy of a 13-page document containing their rules and regulations. She stated that they felt that the document was way too much for them to start with and so their concept was to hold an Art Fair and Farmers Market one day a week, starting in October and going through March where artists would be displaying and working on the Avenue on the median. She advised that they would occupy a very small spot (3x7) and proposed that the events take place from Noon to sunset to enable it to become a family activity.

Ms. Yates commented on the previous Farmers' Market that was held in Town and said that it was based on an idea that she stole from Santa Barbara and noted that it started off very strong and served as a great beginning for many activities. She stated that she would like to put that together with the Artists Market. She reported that Farmers' Markets were very popular right now and there was a coordinator named Dee Logan with whom she has had many telephone conversations. She highlighted Ms. Logan's extensive experience and advised that she and Town Manager Rick Davis had met with her a couple of weeks ago and because of her hectic schedule, she could not even consider joining the Town in this endeavor until January or Spring.

Ms. Yates expressed the opinion that the event would greatly benefit the downtown area and stated that she would like to see the artists "up and running" as soon as possible and not waiting for the Farmer's Market to take place because they would be starting their busy season. She reiterated that she would like the event to begin in October and run through the end of March on Thursdays (so as not to compete with other art shows). She added that they would like to involve only artists from Fountain Hills in this event (including those from Rio Verde, Tonto Verde) and added that Mr. Davis had suggested that they also allow Fort McDowell artists to participate. She noted that they would grandfather in the 40 artists that were now in the Gallery on the Avenue and many of them were not residents.

Discussion ensued relative to the fact that there would not be any tents; only market umbrellas would be allowed; the fact that there would also be children's events and local bands would be asked to participate; Ms. Yate's opinion that this vision would show an accomplishment of the Swaback Visioning Plan - to show a more vibrant downtown that was walkable and appealing to people of all ages; the fact that downtown businesses could "piggyback" on the event and reach out to their customers; the fact that they would also like to invite chefs from local restaurants to put on demonstrations utilizing food from the Farmers' Market; the hope that local musicians would perform (one on each end of the Avenue) and the fact that the event would support the Town's local artists and demonstrate the potential to future developers that the Town could rally its art community, its businesses, and its business community in support of Business Vitality.

Ms. Yates informed the Council that she believed an initial budget of \$10,000 would be a good start and would cover coordination, promotion and printing, and advertising. She emphasized that the expertise of a coordinator was essential to the project to oversee the artists and the Farmers' Market and to provide public relations knowledge. She added that the coordinator would also work with local businesses, including restaurants, to

create promotions aimed at "Market Day" as she currently called it. She said that this event should involve the Town, the Chamber of Commerce, and the BVAC, all working together with the coordinator. Mayor Schlum thanked Ms. Yates for her presentation.

Town Manager Rick Davis addressed the Council and noted that in the past they had expressed a desire to see this type of event occur in the downtown area. He noted that a couple of areas that they were considering included the area between the Library and Town Hall and perhaps utilizing part of the parking lot. He said that the idea was that the Farmers' Market would synergize with the artists' displays and they would also bring in the performing artists' element. He added that they had also thought of incorporating the Art Walk and some "Taste of the Town" type of things that would provide the opportunity for local restaurants to demonstrate some of their abilities as well. He stated that it would be a total arts experience; not just visual arts.

Mr. Davis advised that he had spoken with Captain Kleinheinz and said that there was a possibility that they would not have to close any roads and noted that restrooms were available along the Avenue as well. He stated that some complications might include the difficulty associated with resources and dedication of staff for Town coordination and said that perhaps volunteers might assist in this area, particularly during difficult budget years; and the fact that a funding source had not been identified for the proposal.

Mayor Schlum commented on the fact that as far as possible locations, the Community Center parking lot was mentioned and pointed out that in discussions with Senior Services, they had advised that their number one challenge remained parking. He said that obviously there were places where issues such as traffic and parking would have to be addressed to ensure that the event did not infringe on other uses.

Councilmember Archambault expressed the opinion that the proposal was a wonderful idea and said that as Ms. Yates was describing it, it brought to mind the boardwalk along Newport Beach and asked if that was the type of atmosphere they were trying to create. Ms. Yates confirmed that was exactly what they were trying to achieve and noted that the same type of events took place in Santa Barbara every Sunday. Councilmember Archambault commended Ms. Yates for thinking outside of the box and added that it was a really good idea. He thanked her for bringing it forward.

Councilmember Brown agreed with Councilmember Archambault's comments and asked why they would limit the participants to local artists and those grandfathered in. He said that, for example, they could limit participants to 40 and if the local/grandfathered-in artists did not fill all of the slots, then they could include outside artists as well to fill up the stalls.

Ms. Yates noted that Santa Fe limited the event to local artists and noted that Fountain Hills was a huge artist community and they had recently brought into their gallery artists from Rio Verde and Tonto Verde and they were fabulous and full of energy. She said that they too would be invited to participate. She added that the proposal contained all of her suggestions and stated that they were open to discussion.

Vice Mayor Hansen advised that they had a discussion about location way back when Kate was working on this and said that she thought they were leaning more towards keeping it down by the Avenue and close to the businesses in order to assist them and generate foot traffic. She asked whether the artists would pay a fee to participate (a minimal cost to them).

Ms. Yates reported that Santa Fe charged the artists \$400 a year to participate and their event went on every day so the cost was extremely minimal. She said that the local Fountain Hills artists were not typical artists and were more hobbyists/retired people who loved what they did and they just would not put out that kind of money. She stated that she believed that participants were paying about \$5.00 to display their works behind Plaza

Fountainside and that money went strictly towards advertising. She noted that art was not a priority in the current economic environment and stated the opinion that the artists would represent more of an asset to the Town than the Town to the artists at this point in time. She said that she would like to see it held on the Avenue to create needed foot traffic.

In response to a question from the Vice Mayor, Ms. Yates stated that in order to ensure a good showing she would recommend having 24 to 30 artists participate. She said that she had already spoken to the Art League and the Gallery and many of the people were not willing to commit to one day a week. She added that what they had worked out was that the Art League would take four spots every week and it would be their responsibility to fill those four slots every week and the same with the Gallery.

Vice Mayor Hansen asked whether the people who participated in the Farmers Market would pay a small fee and Ms. Yates responded that it was her understanding that the promoter collected money but she was not aware of the amount.

Discussion ensued relative to charging a small fee to offset the cost of the event; the importance of being creative and coming up with various scenarios to assist in the cost area; contracting with the coordinator to run the program for six months, and the Mayor's opinion that they could work through the problems to ensure that this great idea moved forward.

Councilmember Leger thanked Ms. Yates for her efforts in this area and asked whether they had considered holding the events on Saturdays. He commented on the fact that many of the younger people in Town, the working population, would then be able to participate. He said that during recent travels he noticed that Farmers' Markets held on Saturday mornings were extremely successful and very well attended.

Ms. Yates agreed with Councilmember Leger's point regarding Saturdays being a good day but advised that they did not want to compete with the art shows that were conducted on Saturdays. She noted that during the busy season three or four art shows took place on weekends. She also stressed the importance of involving more family activities in the Farmers' Market to generate attendance (i.e. bring in booster groups and let them do raffles, etc.).

Councilmember Contino said that what he liked about having it on a Thursday night was the fact that at the end they had more cars stop to see what was going on. He stated that there were hardly any parking spaces and he believed that people would attend because they love Farmers' Markets and with the addition of the art show, he believed the event would be a significant draw and would grow week after week.

Councilmember Leger asked how they would proceed with this and Mr. Davis responded that staff would further assess the elements that they were going to need to acquire and put into action in order to make this a reality (i.e. the identification of fiscal and human resources to run it). He added that they were still in a holding pattern waiting for Dee Logan to get back to them as to whether she and her groups would consider Fountain Hills for their Farmers' Market. He said that as far as the regulatory component associated with the arts part of this, Ms. Ghetty could probably talk to them about that. He stated that as far as physical infrastructure to support this type of event, he believed the Avenue already had it. He said that the proposal was very feasible as long as they identified the human resources necessary to coordinate and keep the Avenue running (volunteers, artists, merchants or staff); identified the fiscal resources and satisfied the regulatory elements. He added that if the Council would like staff to move forward, they would get together and start addressing all three of the above listed elements and bring back another plan for Council consideration.

Vice Mayor Hansen advised that Ms. Ghetti had sent the Council an e-mail that addressed the Temporary Use Permit (TUP) and said that the list of items to be addressed in order to obtain a TUP was extensive. She said that she believed that TUPs were meant more for an intense use and what they were dealing with as far as the market concept was perhaps something that they might want to develop a new procedure for. She added that they could use this as a model to come up with that procedure. She stated that she did not want the process to get bogged down with red tape.

Mayor Schlum commented on the fact that other issues had come up such as the Murphymobile in front of the Art Center and said that staff had done much work within a short time to make sure that was all in alignment. He agreed with the importance of not delaying efforts that would positively impact the Town and streamlining the process.

Deputy Town Manager Julie Ghetti advised that staff's goal was to help facilitate these types of events and added that the proposal represented a great vision for the Town. She said that the purpose behind bringing this before the Council and talking to Ms. Yates was to say, "Okay, these are the hurdles that we may have to go through." She noted that there was a big difference between an event that someone else was putting on versus an event that the Town puts on. She added that because this was not something that they had budgeted or planned for, they needed to bring it before the Council to let them know that this was something that staff might bring forward if they could somehow meet all of the necessary criteria mentioned by Mr. Davis. She noted that the proposal would be very labor intensive and the goal was to facilitate it.

Mr. Davis said that with the Council's concurrence, staff would move forward, conduct research on the issue and bring their findings back to the Council.

Councilmember Dickey commented that she found the proposal to be a very exciting prospect and said that she just wanted to emphasize that when they talked about changing ordinances, etc., that it was important to maintain a level/fair playing field for other events that might come up (as well as assessments of other events/projects).

Mayor Schlum noted that they were not talking about a flea market and said that they had to make sure that the intent was to protect the community and more intense events might require stricter regulations. He reiterated his appreciation to Ms. Yates for her efforts. Mr. Davis stated that staff would move forward and try to identify some means and resources to address this particular need.

- (ii) Presentation of the award received in Belfast, Ireland, by the Chair of the Fountain Hills Sister Cities, Sharon Morgan.

Ms. Sharon Morgan, Chair of the Fountain Hills Sister Cities organization, addressed the Council and presented the Mayor with an award recently received by the organization in Belfast, Ireland, for the best overall projects in 2008 for Towns with a population under 25,000. She said that this was international and the organization's application was submitted to Washington, D.C. and two months later they were notified that the Town had won the award. She added that it was her honor to attend the international conference along with two other boardmembers to accept the award.

Ms. Morgan stated that in addition to the trophy, she was also presenting the Town the official picture of the group with that award from the Executive Director of Sister Cities International and the Chairman of the Board of Directors. Ms. Morgan presented Mayor Schlum with the trophy and the picture and thanked the Council for their ongoing support.

Mayor Schlum congratulated Ms. Morgan and the members of the Fountain Hills Sister Cities organization and thanked them for all that they do.

* **CALL TO THE PUBLIC**

None.

* **CONSENT AGENDA**

AGENDA ITEM #1 – CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM SEPTEMBER 8TH AND THE 17TH, 2009.

AGENDA ITEM #2 – CONSIDERATION OF APPROVING A TEMPORARY EXTENSION OF PREMISE APPLICATION SUBMITTED BY DAVID ARTHUR LINK (GRAPEABLES FINE WINES) LOCATED AT 12645 N. SAGUARO BOULEVARD, FOUNTAIN HILLS, AZ, SCHEDULED FOR OCTOBER 17, 2009.

AGENDA ITEM #3 – CONSIDERATION OF A SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY WILLIAM LEE KLEIN (AMERICAN LEGION POST 58, AUXILIARY) FOR THE PURPOSE OF A FUNDRAISING EVENT, LOCATED AT 16837 E. PARKVIEW AVENUE, FOUNTAIN HILLS, AZ SCHEDULED TO BE HELD ON OCTOBER 17, 2009 FROM 9:00 A.M. TO 10:00 P.M.

AGENDA ITEM #4 – CONSIDERATION OF APPROVING AN AMENDMENT TO THE AGREEMENT WITH SWABACK PARTNERS PLLC FOR THE MASTER PLANNING AND STRATEGIC FRAMEWORK SERVICES FOR DOWNTOWN FOUNTAIN HILLS CONTRACT IN THE AMOUNT OF \$5,401.75 TO COVER THE COSTS OF REIMBURSABLES.

Councilmember Archambault **MOVED** to approve the Consent Agenda as listed and Councilmember Dickey **SECONDED** the motion. A roll call vote was taken with the following results:

Councilmember Dickey	Aye
Mayor Schlum	Aye
Councilmember Leger	Aye
Vice Mayor Hansen	Aye
Councilmember Contino	Aye
Councilmember Brown	Aye
Councilmember Archambault	Aye

The motion **CARRIED UNANIMOUSLY** (7-0).

REGULAR AGENDA

AGENDA ITEM #5 – CONSIDERATION OF APPOINTING THREE CITIZENS TO SERVE A TWO-YEAR TERM, OCTOBER 1, 2009 THROUGH SEPTEMBER 30, 2011, AND APPOINTING ONE CITIZEN TO SERVE A ONE-YEAR TERM, OCTOBER 1, 2009 THROUGH SEPTEMBER 30, 2010 ON THE PLANNING AND ZONING COMMISSION.

Mayor Schlum **MOVED** to reappoint Lloyd Pew and Cecil Yates and newly appoint Jeff Mangles to serve a two-year term and newly appoint Gary Goodell to serve a one-year term on the Planning and Zoning Commission and Councilmember Brown **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

AGENDA ITEM #6 – CONSIDERATION OF APPOINTING ONE CITIZEN TO SERVE ON THE PUBLIC SAFETY ADVISORY COMMISSION FROM OCTOBER 1, 2009 THROUGH OCTOBER 31, 2011.

Mayor Schlum **MOVED** to appoint a new Commissioner, Lyle Edwards to serve a two-year term on the Public Safety Advisory Commission and Councilmember Contino **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0).

AGENDA ITEM #7 – CONSIDERATION OF RESOLUTION 2009-36, ACCEPTING THE DEDICATION OF A PUBLIC UTILITY AND ACCESS EASEMENT.

Mayor Schlum advised that the applicant has requested that this item be removed from the agenda and said that it will be placed on a future agenda.

AGENDA ITEM #8 – CONSIDERATION OF RESOLUTION 2009-39, GRANTING AN ACCESS EASEMENT TO BRIAN SCHADER.

Mayor Schlum advised that the applicant has requested that this item be removed from the agenda and said that it will be placed on a future agenda.

AGENDA ITEM #9 – CONSIDERATION OF ORDINANCE 09-09, AMENDING THE FOUNTAIN HILLS TOWN CODE, CHAPTER 7, BUILDINGS AND BUILDING REGULATIONS, ARTICLE 7-10, DEVELOPMENT FEES, RELATING TO ADJUSTMENTS TO DEVELOPMENT FEES FOR THE TOWN OF FOUNTAIN HILLS.

Deputy Town Manager Julie Ghetti addressed the Council relative to this agenda item and stated that during the last meeting in September the Council requested additional information on the proposed Development Fees and added that she had prepared a brief presentation on some of those items (a complete copy is available in the office of the Town Clerk). She added that Pat Walker from Red Oak Consulting was also present to respond to questions from the Council.

Ms. Ghetti provided a brief overview of the timetable associated with this project and stated that tonight they would have a discussion on the proposed fees and noted that the earliest effective date for the updated fees would be July 2011 because of the Legislative moratorium.

Councilmember Dickey commented on the fact that the earliest effective date was technically 75 days from adoption and asked if that could be added in somewhere.

Town Attorney Andrew McGuire advised that the date included in the ordinance was actually either/or; it was actually the earlier date to occur after the moratorium was lifted or July 1, 2011. He said that nothing would change the 75 day effective period - the ordinance would become effective 75 days from now but the fees would not be implemented until either of those two dates occur, whichever happened first.

Ms. Ghetti also mentioned that if there was a decrease in any of the fees, they would go into effect within the 75 days because the moratorium only referred to increases. Ms. Ghetti outlined the proposed fees for residential (current: \$5,472 and proposed \$10,459) as well as non-residential (current: \$3.21 and proposed \$9.37) and

industrial (from \$1.98 to \$3.12). She referred to a chart that depicted a comparison of residential fees showing where the Town was at currently and where it would be if the proposed fees were approved. She said that the some of the charts contained in the Council's packets were incorrect but added that she handed out corrected charts prior to the meeting. She reported that based on the current fee, for a 25,000 square foot commercial building, the Town was the third from the bottom and the proposed fee structure would place the Town fourth down from the top. She outlined additional charts and resulting fee impacts as reflected on the various charts, including two projects that were questioned at the last meeting.

Ms. Ghetti said that the question was asked about what the revenues would be through the study period (through build out) and referred to a chart that depicted the proposed revenues that would be received including interest through 2031. Ms. Ghetti indicated her willingness to respond to questions from the Council as well as Pat Walker's willingness to address any of the Council's questions. Mayor Schlum thanked Ms. Ghetti for her presentation.

Town Clerk Bev Bender advised that one citizen wished to address the Council relative to this agenda item.

Former Councilmember and resident Ed Kehe addressed the Council and said that he lived on Agate Knoll. He stated that growth, particularly residential growth, did not pay for itself and it made increased demands on infrastructure. He added that without development fees to defray capital costs due to growth, municipalities like theirs would find their financial stability undermined and the cost of growth borne by existing citizens. He stated the opinion that the Town's current fees were inadequate and noted that they were arbitrarily set by the 2004-2006 Council and not based upon objective measurements. He said that the Council tonight was being called upon to make a similar decision on a recommendation from Red Oak Consulting that would equate to the actual cost of growth.

Mr. Kehe advised that likely growth-related cost items included management, the widening of major arteries, a new fire station in the north, additional land for parks, expansion of the Library and Community Center, and the installation of traffic-control measures at warranted intersections. He said that as with the last adjustment, stories about fee increases stalling economic development, and the downtown Vision in particular, abounded and simply were not true. He emphasized that there was no evidence that development fees played any part in, or had a negative effect on, economic development. He added that following the logic of the well intentioned opposition, one would think that in Fountain Hills historically low fees would have been the incentive over the years to develop downtown but noted that the 13 acres remained vacant. He said that families decided to locate in Town because of its natural beauty, small-town atmosphere, and low crime rate. He added that commerce and industry based their decisions on the objective measurement of the market in terms of area population. He proposed that when the Town reached 30,000, they would come. He pointed out that they were on the cusp of 1,800 new single-family homes in the mountain properties, the former State Trust Land and infill lots, and said that an adjustment of \$5,000 per lot would not deter those who could afford the expected \$675,000 to \$1.5 million home prices. Mr. Kehe provided additional statistics and strongly urged the Council to approve the proposed development fees and said that if they failed to get it right, current residents would "pay the piper" further down the line.

Mayor Schlum thanked Mr. Kehe for his input.

Councilmember Dickey stated that when they looked at the comparisons among the various cities, they had looked at the non-utility development fees and she understood the reason was that they did not have the same sanitary district, water company, etc. She advised that there was an article in the newspaper about development fees and said that one thing that struck her in the article was that the Town of Gilbert's impact fees were

\$19,726, obviously because they had water and such. She added that the argument that they were having had to do with who was going to go where and when and they would not come here because our fees were \$10,000 sort of paled when you saw that. She said that that type of comparison had not been done but in the meantime, the ones who lived in Town all this time had been paying sanitary fees to the Sanitary District which would be prepared to absorb the new homes or the water that they paid, etc. She stated that that was a big jump and a lot more than all of their property taxes and they did not even pay property taxes in Fountain Hills so she wanted to ask about the comparison charts because much was being made about those.

Ms. Ghetti replied that Red Oak always had a problem with comparisons because every community was different as far as service levels and the type of amenities they wanted to provide to the community and deferred to Ms. Walker. Ms. Walker discussed that the communities might use different methodology and if they used a buy-in or hybrid approach, where they looked at their current capital assets and their population as it existed today and then future capital projects they wanted to add, that would cause a differential in fees. She emphasized that many different things go into that. She advised that the Town of Gilbert was actually low because they did not have a street impact fee; they had a traffic signal fee. She said that if they added in a street impact fee, the amount would actually be higher. She noted that Gilbert required developers to put in the streets and it was not quantified but they did pay to put in the streets. She added that there were stormwater fees for Mesa that were not included, etc. across the board. She said that they really had to look at their community and what they needed in order to serve new growth, the desired service levels was what drove the fees.

Councilmember Archambault commented that what Ms. Walker was saying was that it really was unfair to compare the Town with other communities because there was such a moving target out there and each community was unique unto itself and had their own specific needs. He stated that he agreed that the Town was certainly different than Paradise Valley although they often compared themselves to that community because it was approximately the same size as Fountain Hills. Ms. Walker concurred with Councilmember Archambault's comments and said that they did understand that Councils wanted to know what the surveys showed but they also emphasized that every community was unique.

Councilmember Archambault stated that they had heard a lot about economic development and that it was driven by impact fees but said that he did not know of anybody who had moved here because the impact fees were low -- people said that they moved here because they like the community. He asked whether Ms. Walker had seen any comparisons having to do with economic development as opposed to impact fees.

Ms. Walker replied that her firm received many questions regarding that but they had not seen a study that verified or proved that theory. She added that in working with many commercial businesses that come into various communities, one of the things that they said was that that was not one of the determining factors at all in their decisions. She said that there might be other things such as labor pools, the community itself and its amenities, places where people could live and work and those were all things that ranked higher (she had seen studies that attested to that and the fees ranked below). Councilmember Archambault commented that what Ms. Walker was describing to him was a business plan.

Councilmember Leger referred to the proposed timetable and said that it was clear from the timetable that the proposal was a well thought out process and he elaborated on the extensive process that had taken place. He noted that the numbers were driven by the Town's 20-year Capital Improvement Plan (CIP), a plan that had been approved by this Council with the exception of Councilmember Brown who was not serving at that time. Ms. Ghetti concurred with Councilmember Leger's statements and advised that the CIP was approved on September 8, 2008.

Councilmember Leger pointed out that the plan was the basis for driving the analysis and therefore the analysis was really based on the predicted future infrastructure needs for the community -- to maintain their quality of life, infrastructure and level of services. He added that it served as a key factor in attracting people to the community. He reported that according to one of the few scientific studies that was conducted in partnership with the last Strategic Plan in 2006, the five top reasons for moving to Fountain Hills included vista views, the environment, low crime rates, public safety, and quality of housing. He said that the Town was unique and it was difficult to review all of the charts provided and compare Fountain Hills to other communities. He added that people would come to Town because of the quality of life it offered. He stated that since they had been having this discussion he had been unable to find any data that indicated that impact fees were a deterrent to new housing, economic development or large projects. He advised that what he had found was that places like Fountain Hills grew not in relation to impact fees but as a result of supply and demand. He emphasized that the proposed numbers were based on the CIP that was put in place to maintain and sustain the quality of life enjoyed by the community over the next 20 years. He further stated that in the absence of sustaining that quality of life and infrastructure, they would have failing infrastructure and it would not be impact fees that kept the residents or developments away; if the Town was not fiscally healthy and the infrastructure predictably fell by the wayside, the Town would stop being a desirable place to live and work.

Councilmember Dickey **MOVED** to approve Ordinance 09-09 amending Town Code Chapter 7 relating to Building and Building Regulations with the fees as proposed by Red Oak Consulting and Councilmember Archambault **SECONDED** the motion.

Councilmember Dickey referred to the Town's Strategic Plan and mentioned a few of the things that were in place and which drove the budget: Ensuring that the development of former State Trust Land proceeded in a way that was most responsible and beneficial to the community; maintain and develop good roads and walkways; optimal use of trails, parks, open space, reserve service levels; functionality of parks; promote their small-town character with existing, improving, and adding to their special events; enhance customer service; exercise fiscal responsibility while maintaining organizational and functional integrity, and support initiatives which enhanced public safety. She said that almost every one of those was a category to which Development Fees could be applied and added that every dollar that they looked at (changing it or lowering it) all were part of a project that was approved by this Council in the CIP. She commented on the fact that if an emergency occurred such as a road that had to be repaired then something else would not happen. She noted that they had had discussions about the Senior Center, having an aquatics facility as well as transportation issues, which were getting more and more prevalent, support for the arts, the Boys & Girls Club and all of the things that made their Town what it was. She pointed out that they would have to address stormwater issues as well.

Councilmember Dickey referred to an article that appeared in the local paper and in The Republic written by Bob Robb, a fiscally conservative person, and he talked about Mesa and said that he wrote that he was not in favor of utilizing Development Fees for Mesa's Cultural Fee but almost a "throw-away line" in the article was something that he said straight out, "Impact fees are appropriate to recover infrastructure costs uniquely associated with new developments." She said that that was exactly what this was; it was a valid process. She added that the Town hired a company that they trusted and spent resources in order to obtain their expert opinions and Mr. Robb said straight out that he believed in the integrity of Development Fees to pay somewhat for the cost of the infrastructure that the Town needed for development. She stated that she could not understand support for taxing existing property owners instead of trying to offset some of that with impact fees, which could actually be used as user fees. She added that they were talking about improvements for which the fees were actually formed and emphasized the importance of sharing the burden with those people who were yet to come to Town instead of burdening existing, long-term residents. She further stated that the President of

Valley Forward, an organization in Town with which they had interacted, which had a great deal of integrity, (they were for growth and good economic engines but not at the expense of the environment or other quality of life issues) said in the paper, "Impact fee freezes pose a danger to the economy. Most Valley communities are struggling with severe budget cuts, reductions in personnel and pending tax hikes and they will take another hit as imposed impact fee freezes on new development go into effect. The moratorium runs counter to the State's Legislative priorities and an already faltering economy. Growth, even in a soft market, should pay for itself. Elected officials have a responsibility to foresee the consequences of Legislation and ensure that they are not placing an even larger burden on cities when they can least afford it."

Councilmember Dickey said that she was asking that they listen to what she was saying and stressed that there was no evidence that increased Development Fees would keep people from coming to Town. She added that the information contained in the study was actually contrary to that. She stated that she would prefer to look at facts and history.

Councilmember Brown said that he had not heard one conversation about the Development Fees deterring or stopping anybody from building or moving to Town and opening a new commercial office building. He stated that he agreed that they should share the burden and right now they were not doing that; they were taxing people that they had asked to move to Town and they were not helping themselves at all. He added that when Fountain Hills started helping itself he would say, "double them again" but right now, until the Town helped itself, he thought it was ridiculous. He commented on the amount of building that they saw take place from 2002 through 2006, a huge run, and said that they were anticipating that with the proposed fees that would continue and they would use the fees to do the projects that had been identified and listed. He asked what would happen if they did not build anything in Town (and he hoped that did not happen) -- how would they pay their own way then? He advised that that was the point that he was trying to drive home. He added that they were assuming that they were going to get a lot of money as a result of Development Fees and if they did not get those fees, he wondered how they were going to pay their own way.

Councilmember Brown reiterated that he was not objecting to the Development Fees and he had said that every time they discussed this, but in the same breath they needed to be thinking about paying their own way and not depending so heavily on Development Fees to run the Town.

Vice Mayor Hansen requested a clarification and asked when the study was done for the Development Fees and whether both the CIP and the IIP were used in the calculations. She said she remembered having the discussion about the IIP and remembered saying that she could not support everything on the list that night because there were things in there that probably would never happen. She noted that the comment was that, "This was just a wish list;" everything that they might possibly want to do in Town and so even though they made the point that this Council had approved the CIP, she always had the concern that everything in the world had been included in that list and that somehow that was perhaps artificially inflating the bottom-line numbers that they came up with.

Ms. Ghetti responded that the CIP and the IIP were one and the same; they were the exact same projects in that report. She explained that the difference was that the IIP included only those projects, or a portion thereof, that were related to growth. She said that staff put together the CIP and then they sat down with the consultant and went through the list project by project to determine whether the projects were related to growth (were they doing the project because of anticipated new population). She reported that if the answer was yes, then that was a growth-related project. She said that they might have a "wish list" item in there but it might be something that they would do anyway in the community so it was in the CIP but it was not included in the calculation of the impact fees because it was not a growth project (it was eliminated in the calculation of the fees).

Vice Mayor Hansen noted that there were some items included, such as a park in Adero Canyon and parks in the Ellman project and all along she thought that Ellman said that they were going to build the parks but yet that number, which was a pretty significant number, was included as being growth related.

Ms. Walker addressed the Council and explained that the Ellman Property was included because Arizona State Statutes dictated that when you were going to give a credit you had to have the fee included in the calculation. She noted that in order to be able to give them a credit so they did not have to pay the park fee, the cost had to be included. She added that one of the things they looked at when they conducted their study was the service level that was being developed for everyone in the community and the service level target was two acres per capita or per thousand people. She stated that when they included the Ellman Property they were reaching that service level and people were buying into that service level so everyone paid. She said that Ellman would not be paying the impact fee for the dwelling units within that development because they would be receiving a credit back for a certain amount up to the acreage (approximately 27 acres).

The Vice Mayor advised that she was uncomfortable with this and stated that some things they knew would happen for sure but some things they did not know would happen for sure but yet they were still including them in the fees.

Councilmember Leger commented that he shared the same concerns and when they were looking at a 20-year plan it was hard to know what they were going to be doing even five years from now. He noted that historically, in looking at long-term plans, his experience had been that they might have a project that was slated (perhaps something on a "wish list" or a project that might not come to fruition) but usually over a 20-year period, projects were supplanted by other projects; other needs typically came up and in the long term things had a tendency to balance out. He added that he also shared the Vice Mayor's concern and observation regarding the plan itself and noted that the point he was trying to make was that the numbers came from the CIP and the Infrastructure Plan and they did not arbitrarily come up with the numbers. He emphasized that the bottom line was that there was a choice and if they renegotiated the numbers and pulled them back then they had to recognize that they were pulling back capital projects or they would increase the burden on the taxpayers.

Councilmember Dickey commented on "paying their own way" as discussed by Councilmember Brown and said that her understanding of these were not to pay their own way. She referred to the fire station as an example and stated that if the fees had been higher for the last few years or decade, they might have had more than the \$35,000 that they had for that station that they were allowed to take out of Development Fees. She advised that her point was that they would not need another fire station if they did not have development and houses going on in that area of Town. She added that saying if the growth stopped then they did not necessarily need everything (yes, they had to fix Saguaro Boulevard but a majority of this Council voted not to place that on the ballot) but that would have to be the way to pay for other infrastructure improvements that needed to happen regardless of growth. She commented that they could look at the Senior Center standing alone and saying that that was a "wish list" item but if there was 5,000 or 10,000 more people in Town and they were all getting to a certain age it would be more than a "wish list" item or it would not be a service anymore. She stated that they were going to have to make choices if they did not pay for the growth.

Mayor Schlum said that good dialogue had taken place and commented on the number of public meetings that had been held and the excellent input that had been received. He noted that Red Oak Consulting followed an industry standard process and when the Town hired them, they were not aware of the Legislation that would be handed down. He added that when they looked at the CIP, there were projects included that some of them might not envision or even want to complete but some of those could be supplanted by other projects ten years from now so they had to keep that in mind (there might be projects added five or ten years from now that would need

to be funded). He commented, however, that not all of the items in the CIP would need to be funded by Development Fees. He pointed out that they almost put one of the projects on a ballot (bond issue for Saguaro Boulevard) and noted that it did not equate to any growth-related projects in the CIP because it was re-do of the street and not an improvement. He added that there were other projects that they might decide should go on a ballot to let the citizens decide and/or things that would be paid for by developers but they had been included just so that the Town could credit them back.

Mayor Schlum stated that impact fees were currently a funding mechanism that the Town relied upon; they were all just things going in and going out but they funded things for which they budgeted every year and applied the community's values toward and so the Council made decisions on a bi-weekly basis to direct the monies as best they could based on the values of the community. The Mayor advised that he had looked at the current proposal and the CIP and made some reductions in items he thought might ultimately be paid for by impact fees but could also be paid for through alternative measures as well as other items that might have other funding attached to them. He agreed that the Council needed to be responsible to ensure that the CIP items that they had agreed to must have a funding source at some point but added that he was confident that at some point a number of them would have an alternative funding source. He pointed that there were things that they added to the CIP because they were specifically asking for some Federal dollars and they were pretty substantial and increased the CIP that they were now basing their impact fees on. He said that he also took that into consideration.

Mayor Schlum stated the opinion that the dialogue that had taken place had been very worthwhile and everyone was arguing for the things they believed were best for the community. He added that they had just adopted their Vision Plan and were really focused on making sure that they were competitive regarding fees. He said he agreed that demand drove development and the fees really would not play too much of a factor but no one here wanted to charge more than they really had to. He advised that everyone was trying to make the best decision possible and he appreciated the motion that had been made but said he would like to propose an amendment to the motion.

Mayor Schlum **MOVED** to amend the motion to adopt the new fee schedule (by category as presented by staff on Page 1 of the Staff Report) for single-family residential of \$6380; multi-family residential of \$5404; commercial \$6.00 per square foot; office \$3.00 per square foot; hotels \$2.00 per square foot and industrial at \$2.00 per square foot.

The Mayor explained that he took what he could out of the CIP; items that he believed would likely be funded through an alternative means and he had assumed that some projects might be replaced by other projects and came up with the fees, which represented an increase on each fee at a significantly less substantial rate than what was recommended.

Councilmember Brown **SECONDED** the motion.

Town Attorney Andrew McGuire said that if they looked at the ordinance that was prepared that had the actual fee schedule, they needed to somehow equate the gross numbers provided by the Mayor to the actual fees broken down by category in order to know how the ordinance could be amended. Mr. McGuire stated that they could take the Mayor's total amount and then apply that reduction equally to all of the different fee categories and come up with a number that applied to the ordinance so that everyone would know exactly what they were voting on. Mayor Schlum concurred with Mr. McGuire's suggestion.

Councilmember Dickey asked what projects were eliminated by the Mayor. The Mayor discussed the ones he suspected would be funded through alternative means and that had a significant growth portion to them and said

that Saguaro Boulevard had zero allocated to growth so that would not be a good example. He noted that he looked at the Senior Center just under General Government and said that the capital item for the Senior Center had a portion related to growth (37.8%) and that was an example of one that he reduced the commitment towards because he expected that there would be a large portion that will be fund raised and/or potentially bonded. He added that the biggest one was the Ellman project and referred to Page E-4 on the appendix, the community park/Ellman property and said that that amount had been largely eliminated because he understood the crediting and debiting but it did not end up to be a dollar amount that needed to be collected through impact fees (a reimbursement).

Mr. McGuire requested that they go over the first two fees again and then they would address the Ellman issue. He said that for Single-Family Residential the Mayor had \$6380 and the Mayor said that came from the cover page and the Multi-Family Residential was \$5404. Mr. McGuire explained that the way the Statute worked, in terms of infrastructure that was going to be built by a developer that was going to be credited back, if it was not in the fee study they could not give it back. He stated that if the cost of the park was \$5 million and they had attributed \$3 million of that to new growth, \$2 million of that was going to be a portion which could be credited back to the developer because they were building a piece of that infrastructure. He added, however, that the development fees were never going to add up to that amount so there was always going to be a delta that the developer would build and never be reimbursed for. He further stated that in order for them to be reimbursed at all, the fee had to be included in the fee study, otherwise they could not reimburse development fees for a piece of infrastructure that was not in there. He said that if they reduced it to an amount and the IIP was reduced out so there was not a park in there any more, they could reimburse for construction of that park. He advised that there was a "tug of war" that the cities and towns found themselves in the middle of. Developers were anxious to have the development fees as high as possible in order to be reimbursed for large pieces of infrastructure that they build while builders did not want impact fees at all because then they were paying for the cost to reimburse that.

Mayor Schlum clarified that he was looking at how things would ultimately be funded and Mr. McGuire said he just wanted to be clear on the fact that they were not removing the park and the Mayor said he understood that. He added that apparently he had not broken his figures down enough.

Mayor Schlum, in responding to Councilmember Dickey's previous request for a list of the projects that were eliminated, continued by referring to Page 12-F, the appendix, under Street Improvements, and said Fountain Hills Boulevard widening for \$7 million all equated to growth. He said that that was a portion which he did not suspect would be paid purely through impact fees and he suspected that it would be paid for by Federal dollars, which they were currently asking for or paid for through a similar means that they discussed (perhaps through a bonding mechanism). He added that he knew it was going to be a balancing act and not everything would work out the way he was expecting them to but he just tried to take what he thought would be a fair and balanced approach. He discussed the fire station and the \$2 million all equated to growth and said that that was left in there because obviously that would be needed and although it might be bonded he left that piece in there. He said that in the end he also did not feel that the increase that was being proposed fit quite right. He said that he looked at what increased so much and it was primarily the streets. They had recently added in some additional street items because of their desire to win them with Federal dollars (Stimulus funding) and in order to actually expend them they had to be put in the CIP even though the funding was not expected to come from impact fees, it still had to be counted towards the impact fees. He reiterated that he did not break them down enough and explained that he took the same percentage off of each area and provided six numbers instead of the ten that they needed.

Mr. McGuire asked whether the numbers anticipated the decreases as recommended by the study as well (were the fees that decreased being left intact?) and the Mayor said he understood what Mr. McGuire was saying.

Vice Mayor Hansen requested that Mayor Schlum elaborate somewhat on how he figured the increase for commercial and said that most of the proposed increases were quite moderate but that one almost doubled. Mayor Schlum replied that he did not necessarily start with what they had; he started substantially with what was proposed because that was based on the new CIP. He added that for the most part he reduced by a percentage of what was proposed.

Councilmember Dickey asked whether some of the numbers went down and the Mayor said some of the items as they were broken down further on Page 77 of the packet (some of the fees did go down when they looked at the sub-sets of Law Enforcement). He added that Streets was the one that jumped up the most.

Mr. McGuire noted that Law Enforcement and Open Space both went down and those decreases, if the Ordinance was adopted, would go into effect 75 days from now. He clarified that the fee study recommendation resulted in a decrease in the two areas.

Councilmember Dickey said that she wanted to speak to the amendment and the rationale for it being trying to lessen the amount that it was going up from what it was. She noted that the amounts that were originally proposed went through another exercise like this and the fees that were accepted at the time were low and arbitrary and now they were making decisions on changing these based on the fact that it was a certain percentage over what it was. She stated that she just did not understand the rationale and they were getting these numbers for a rational reason but they were saying that they did not want to do it because they were twice the amount that they were now.

Mayor Schlum said that what they were looking at from Red Oak was assuming that there was no more bonding on these items and no more Federal Stimulus money on these items and he added that that was the right assumption because they needed to be conservative and if they were to build everything that they wanted, which was in alignment with what the Council valued and the citizens desired, they needed to figure out a way to pay for them. He added that one way was to ensure that growth paid for itself and if it were not for growth they would not do such and such projects or a portion of some projects. He asked how they equitably charged someone moving into Town that was going to benefit from the improvements to ensure that everyone was paying a fair share. He stated that he agreed with that premise but what he did not agree with was how it was funded.

Councilmember Dickey noted that the Senior Center project might not be needed unless they had many more senior citizens living in Town but everyone who lived here now would have to pay for the bond if that was the route the funding took. She expressed the opinion that it would create a burden for existing residents to pay for needs for residents to come and they were favorably treating people that were not here yet and placing the burden on those who were and who had been for a long time. She reiterated that the rationale escaped her.

Mayor Schlum commented that he understood what Councilmember Dickey was saying and noted that the Senior Center was 37.8% equated towards growth and he was saying for the purpose of equating an impact fee that it might potentially be funded in a different way. He said that perhaps a better example would be a downtown parking garage and developers would pay 37.8%. He stated that perhaps that could be funded through something else; maybe a developer comes in and builds something else downtown and part of what they do is help to build a parking structure. He added that a pool, a community park -- big dollar items that add up to \$6 million and \$7 million were items that they might not necessarily pay for just through their capital

improvement dollars but would choose to utilize some alternative funding like a bond or grants (an example of which would be Desert Vista Park that was previously on the Town's plan for \$2 million and it still remains on the CIP because they had spent that money but \$1 million of it was funded through a grant). He pointed out that if they collected \$2 million in impact fees that would not be the right amount to charge because half of it potentially was paid for through a grant. He said that he realized that all of these things move and Councilmember Dickey pointed out that they did not collect the entire amount. The Mayor said that he did not have a problem with the CIP but other funding comes into how it was paid and he did not know about putting it all into impact fees.

In response to a question from the Mayor, Ms. Walker advised that they had worked on percentages based on each one and were continuing to calculate the numbers.

Councilmember Archambault stated that he would like to address the motion and stated that he clearly understood the frustration that some of the Councilmembers had expressed this evening. He said that it was clearly a frustration that he believed every one of them felt. He commented that no one wanted to pay more than it cost for services but they did expect to pay something. He added that the frustration that they had as a Council was that they put things in front of the citizens and they tell us, "No, we don't want to pay for that." He said that they then get to deal with the services that they get because they told us that that was what they were willing to accept. He noted that when the Council takes the position to not place something on a ballot because they believed that the citizens probably would not pass it, they were assuming that they would not pass it and perhaps they would not. He said if they would not pass the bonding for Saguaro Boulevard then they get to live with Fountain Hills Boulevard and all of the associated ramifications, i.e. Fountain Hills Boulevard falling apart, pot holes and maneuvering from one lane to another just to avoid them. He stated the opinion that the citizens of this Town did expect to pay for something and he did not know what that level was right now but he did know that they expected to pay for something. He added that then they expected the Town to spend the money that they did get wisely. He said that what he was struggling with as that they would essentially be reducing about \$9.5 out of the IIP/CIP projects and he did a wild educated guess also and came up with a simple formula - for each dollar they reduced each fee, how much did it take out of just the Streets budget and it would be about \$9 million which was being proposed. He advised that when he heard, "We could bond for this" or "We might get stimulus monies for that," it disturbed him because they could not make that type of assumption and in doing so they were either sacrificing the unsustainable revenues of the Town by bonding it with their sales tax revenue or going to the citizens and saying, "We need a bond to build a Senior Center."

Councilmember Archambault stated that they probably would bond for part of the Senior Center but the impact fees that they received would help supplement the cost of that Center and so would be able to bond less and the citizens overall would pay a fair share to enjoy that Center. He referred to the Town Hall project and noted that they did not go to the citizens and say, "Will you bond it and give us the money to build Town Hall?" He said they had the impact fees that they had collected to help pay for the Town Hall and the move that the Council made at that time was important because it was going to save them \$500,000 a year. He asked whether it was the right move and answered yes it was because they were paying less than that for the bonds that they had for the Town Hall. He noted that in a roundabout way, they had given the citizens in this Town a gift. He added that sometimes they got frustrated because they gave them a gift, showed the citizens how prudent they were, explained to them what they were doing, were open as far as information and it was frustrating when they demonstrated to the citizens that they were an open government and did not fall into the trap into which everyone liked to put government but did not get the response they were looking for. He agreed that no one wanted to pay more than what they wanted to pay or have to pay but they did expect services and when the services were reduced, the citizens realized that that was the impact of their ballot response. He said in listening

to the discussions, it sounded as though they were going to go back to the citizens and say we were either going to balance those capital projects or infrastructure improvements on the Town's coffers or the citizens, and to collect the impact fees (and the Town paid \$65,000 for the study to be conducted). He added that they received the hard data and it was not suggestive nor were the numbers just plucked out of the air. He noted that there were projects that were going to come up probably within the next five years and other projects might go away but if they did not collect the fees now they would not have the money for those projects and they would slowly strangle this Town to death.

Councilmember Archambault advised that he was trying to stay focused on just the impact fees but he could get into a whole other discussion about the citizens of the Town, the services they demanded of the Town and what they were willing to pay. He emphasized that the citizens had to realize that the Town was a zero-based enterprise; they did not make a profit on anything and they did not collect more than what they needed. He added that they also had more pressures relative to desires than they had money for. He stressed that in good conscience he could not take the path that was unsustainable and said that they had given too much away in hopes of development to not continue down the path where neither citizens, builders, developers nor businesses wished to pay their fair share. He said that it was just not fair and the Town's coffers were not for anyone to dip their hands into - the revenues were for the services of the stakeholders and not outside interests. He stated that he did not like paying fees any more than anyone else does but he was certainly willing to pay his fair share.

Councilmember Leger asked whether Ms. Ghetti had the slide that they had looked at during the last session that went back to 2002 and looked at what was proposed and what was adopted. He explained that his point in going back to that was that this was an exercise where once again the Council engaged in an arbitrary discussion, set fees significantly low and as a result significant revenue was not realized by the Town. He said that as he had indicated in the past, he thought it was time to look at some adjustments and that was what they were doing this evening. He added that as far as the high end of the scale before them he was very reasonable and flexible regarding some of the CIP items in there that might never come to fruition. He stated, however, that he did have concerns about the numbers that had been put on the table (i.e. they were increasing Industrial by two cents a square foot, hotels by .39 cents a square foot, offices by .65 and commercial \$2.79, which seemed a little more reasonable). He said that he felt that perhaps previous Councils did not have the political will to make a decision and so they were in a catch up mode and they were falling into the same scenario. He added that he heard this evening that the Town, not the growth part of the Town, needed to pay their fair share and noted that the CIP was \$180 million and the residents existing on the Town's coffers would be paying \$120 million of that. He said that for \$60 million, which represented approximately 30%, they were looking for developers coming to the Town.

Councilmember Leger noted that Ms. Ghetti did an analysis for the Council and stated that if they stayed at their current rate and then moved up to the recommended rate, if they did not go with the recommended rate they would diminish the Town's revenues by \$10 to \$12 million (conservative number). He said that his quick calculations showed that the increases they were looking at amounted to less than 10% and expressed the opinion that it was almost an exercise in futility. He pointed out that that equated to \$10 million less in revenue than they would realize if they went to the high end but expressed the opinion that the low end was extremely unrealistic. He stated that he had look at where they were, what the consultant was proposing and where they neglected to make increases several years ago and they had paid the piper for that. He added that if they wanted to start pushing numbers back, if they took where they were at on the high end and came up with an average, at least that gave them a more realistic number. He said that he had heard that they must not increase their development fees because that action would have an adverse effect on the Swaback project. He stated that if they looked at the critical elements of that project, one of them was sidewalks, another was traffic mitigation,

improvements in streets, a performing arts center and a parking garage and all of those things were in the CIP and they were asking commercial developers to pay a certain portion of that to contribute to the Vision. He expressed the opinion that increasing the impact fees would adversely affect the Vision.

Councilmember Leger further stated that many might recall the discussion about the 13 acres that had remained vacant for many years. He noted that they had a developer who stepped up and they worked through the entire process. He reported that the total project was 400,050 square feet of development, of which 200,000 square feet was commercial. He said that when they started looking at large projects he believed there was another variable they needed to take into consideration. He stated that they were saying to themselves that they did not want their commercial fees to be so high that they would discourage development and there was no evidence of that but he had in front of him a development agreement with a developer who was willing to develop 400,000 square feet, 200,000 square feet of commercial whereby the Town, through the agreement, capped the development fees. He added that there were many tools to manage the fees at a higher level. He said that they did not have that same incentive to be able to provide the developers. He noted that he had heard a lot about the Swaback project and stated that he kept hearing that they needed to incent the developer and added that the reality was that the State Legislature had taken away just about every tax incentive they could give a developer. He advised that impact fees allowed a reasonable number for the small projects and provided the flexibility to cap or negotiate and come up with some kind of incentive. He stated the opinion that the numbers they were talking about were not going to pay for the type of infrastructure that would support those projects and it would be a very cold day in this Town before the citizens would step up and approve a bond for a parking garage, a bond for a performing arts center, etc. He referred to a recent election and reported that the citizens sent a loud and clear message -- they did not want to pay. He said that he believed that the Mayor's numbers were way off the scale.

Mayor Schlum agreed that two cents for industrial might have been a mistake and it should have been closer to a 28% increase. He said that the increases he was proposing were as follows: Single-Family Residential a 16.5% increase; Multi-Family Residential a 10% increase; Commercial an 80% increase (although still below what was recommended in the square footage fee); Office a 28% increase and Hotels a 25% increase. He stated that if they were looking at comparing what they did a couple of years ago to what they were doing now, the numbers represented a substantial increase. He added that it still might not get everyone up to the level with which they comfortable but that was what the increases equated to as far as a percentage of what they currently were. He added that Industrial would be about a 20% increase. The Mayor said that he appreciated what Councilmember Leger we saying but he just did the best he could in looking at where he thought alternative funding would come from outside of the impact fees and added that he was comfortable with where the CIP was today and they would discuss it further in the future. He noted that he was not looking to remove items from the CIP but simply addressed how some of them might be funded.

Councilmember Dickey commented that again she had a problem with the percentage as a rationale because the numbers that existed were absolutely arbitrary and not based on anything. She added that by saying the numbers were substantially higher really did not mean anything because it was not related to anything that was needed at the time. She pointed out that if the moratorium went through they were not going to see these fees until 2011 so they would be even less adequate at that time if they had to wait that long for them to go through. She said that she never understood why they were not provided Scottsdale's numbers because if they were worried about people deciding not to come to Fountain Hills because of impact fees, she would have thought that Scottsdale would be one of the more logical places to look.

Ms. Walker advised that Scottsdale did not have any non-utility impact fees and they had used other funding sources in the past. She added, however, that based on the fact that there would not be any construction sales tax coming in, they were not going to have that funding source and so they took away monies from other things in the community that they could have used construction sales tax for and used that for impact fee projects. She said that that did not mean that they would be able to do that in the future because of the economic downturn. Councilmember Dickey added that Scottsdale also had a property tax.

Mayor Schlum stated that he looked at what the Town was expecting impact fees to fund, what he believed to be more realistic as far as the funding source, and tried to apply that to the math. He stressed that he was not comfortable with what was being proposed; not because it was not the right mathematics but rather because he did not expect all of those projects to be paid for through impact fees (at least the growth portion - i.e. the Saguaro Boulevard widening that would probably come forward next year as a bond issue).

Ms. Walker advised that she just heard that one of the percentages might change, which would change the numbers overall. She said that what they had done was calculate based on the numbers that they were given (what the decrease would be for the categories) and then as a percentage and that was applied across the board. She stated that Residential for example, if the decrease was \$1,079, then that was 38.9% and that was applied towards each of the fee categories to come up with the dollar amount or the difference in the dollar amount. She added that she just heard a different percentage so she was not sure what the percentages were. She noted that the proposal was to change the industrial one and the Mayor concurred and said it would be a 20% increase from the current amount (a decrease from the proposed amount).

Councilmember Dickey stated that she made the main motion and there was an amendment on the floor. She asked what if someone proposed an amendment that would just take the proposed amounts and lower them by 10% or something like that. Mr. McGuire advised that the motion currently on the floor was the Mayor's motion and that amendment needed to be voted up or down. He added that before they did vote on it, they wanted to clarify what the motion was. Mayor Schlum stated that it would have to be undone because it was not in the right format for the tables. Mr. McGuire explained that what they needed for any motion that happened was clear direction on how to go and fix the old Ordinance that had all of the actual fee categories broken down rather than the conglomeration that was in the Staff Report.

Mayor Schlum said that the Industrial fee, based on the cover sheet, would be \$2.38 instead of the \$3.11 recommended and up from the current \$1.98. Mr. McGuire recapped and said that the Mayor had total Single-Family Residential at \$6380; Multi-Family Residential at \$5404; Commercial at \$6.00; Office at \$3.00; Hotels at \$2.00 and Industrial at \$2.38 cents. Mayor Schlum concurred with Mr. McGuire's statements relative to the proposed fees.

Mr. McGuire recommended that the Mayor amend the motion to allow staff the flexibility after the meeting was over and before the Ordinance was actually executed to reflect as follows: To amend the main motion to modify the recommendation of the fee increases as follows and then include the list of categories and associated fees outlined above and agreed to by the Mayor with the reductions applied to all respective fees included therein and based upon a weighted average. He explained that that way staff could go through and apply it to each category that was included in the total fee that was amended in the Staff Report. He further stated that it would just be a recommended adopted fee of those; not a reduction or increase.

Councilmember Leger commented that in theory, if they moved in this direction, he and the public needed to have a question answered -- namely, given these adjustments and the numbers with which they were coming to, what did that do to the CIP? He said that they were changing it and in some cases they might be decimating it

and it almost appeared to him that they would have to take these numbers and apply them to their analysis and come back and say, "This is what you have folks; this is what you have at this price, this is what you have at this price" and to totally decimate the CIP after a year of discussion and approval in this manner was not something with which he felt comfortable. He reiterated that he would be more than happy to move away from the high numbers but because of the size of the decreases, with which perhaps he could be comfortable, he first needed to know what it was going to do to the CIP.

Ms. Ghetti responded that the CIP would not change (the growth portion) because that was the adopted plan and what would change was that the General Fund or other funds would somehow have to pay for the capital projects because there would not be sufficient money and other sources would be needed.

Councilmember Leger stated that they knew that the money was not going to be there (in the Capital Fund) because they were not going to have those types of surpluses in the General Fund to move over to the Capital Fund so the end result to him was still the same, things just would not get done. Ms. Ghetti confirmed that the projects would get pushed out.

Mayor Schlum expressed the opinion that the comments were all extreme; all or nothing. He added that they were talking about the growth portion, which was a smaller portion of the overall CIP and it was not removing it; it was still increasing the fee and not decimating anything. He stated that it was simply applying a percentage (an increase) to the impact fees based on his going through and how he might suspect funding might ultimately pay for improvements, particularly on the growth side. He added that he wanted to come up with a number that he thought was fair and balanced and provided for growth paying for itself.

Councilmember Leger advised that he did not have a comfort level with the proposal and pointed out that that the Mayor had had the benefit of conducting an analysis and determining how it would impact the plan, which he had not. He said that he was suggesting that it would be constructive to take a look at the rates that the Mayor was proposing and what the plan then looked like on the growth side.

Vice Mayor Hansen suggested that since it appeared that this was causing considerable consternation at this point and did open up additional questions, perhaps they should consider continuing this item at least until the next meeting. She noted that staff was being given information at the last minute and scrambling around trying to come up with what the final version would look and feel like and associated impacts and although the suggestions might be really good, she believed that there were a number of Councilmembers who would like more time to consider what the changes meant.

Vice Mayor Hansen **MOVED** to continue this agenda item until the next Council meeting and Councilmember Leger **SECONDED** the motion.

Councilmember Leger noted that they had some time to agendize prior to the next Council meeting and said he was not sure how much time it was going to take for staff to make the adjustments and he would like to make sure they had sufficient time to get it right so that the Council could move on it. He added that if that meant the next meeting or the meeting after that he would be fine with that and noted that they were in the midst of a two-year moratorium anyway.

Ms. Ghetti said that if her understanding was correct in that the Council would like staff to bring back a new fee schedule based on what had been proposed tonight (broken down by the different categories) that was one thing and not a difficult task but if the Council wanted them to go back and do a whole new study and recalculate the fees based on the study, that would take several months.

Councilmember Leger advised that he would also like to know what impact this would have on the growth portion of the previous analysis.

Vice Mayor Hansen noted that they were only supposed to be discussing the merits of the motion to continue and asked what would happen if she rephrased the motion and rather than saying to continue to the next meeting she said, "until such time as staff felt they were prepared to bring the information forward." Councilmember Leger agreed with the rephrasing of the motion as suggested by the Vice Mayor.

Councilmember Dickey asked how much staff time and resources would be spent on this and whether the consultant would have to charge the Town extra for additional work for her time (between now and when the proposal was brought back before the Council).

Ms. Walker advised that if the Council wanted to know what the impact would be on projects, they would have to run a new cash flow analysis and determine how much cash they would not have as a result of reductions in the fees over the life of the study. She added that they could then look at what that dollar amount was and then determine what projects they would not be able to do according to that dollar amount. She said that that would involve extra work and they had the model to work that but it would result in additional consulting fees because the contract had been expended.

Mayor Schlum stated that if they were to suggest that staff/consultant come up with an A & B option at the next meeting, utilizing perhaps what he suggested in the motion, he would like to know if it was still relevant to talk to. He spoke in support of directing staff to come back with an Option A & B so that the item would not have to be continued again.

Mr. McGuire advised that the current motion to continue to a time when staff was comfortable that they would be able to provide the Council with a recommendation would give staff sufficient time to speak with the Councilmembers individually about what would be necessary in order to make the decision so that the next time this was discussed everyone would have as much information as necessary.

Councilmember Dickey asked whether it would be proper to ask Ms. Ghatti, "There's \$138 million in projects, \$60 million they were expecting to get from this but now there would only be a certain amount -- could she provide that information?"

Mr. McGuire responded that based on the discussion whatever information staff was able to work on prior to actually re-engaging the consultant to re-run the models would be brought before the Council with the intent that if it was going to require further analysis and the numbers did not provide a level of comfort at the next meeting, that staff would then come back and talk about the consultant's contract prior to bringing back the study for further analysis. He added that if they got to the point where staff did not believe that the Council was comfortable with the information provided without going back to re-run it, then the next step would be to request that the Council amend the consultant's contract in order to determine how much more it would cost to run the model and obtain the necessary information.

Mayor Schlum, in response to Councilmember Dickey's prior comments, expressed the opinion that a continuation was appropriate in order to address the questions and concerns raised this evening.

Councilmember Archambault said that he was opposed to the motion on the floor to continue only because he had spent an exorbitant amount of time on this particular issue and at the last meeting he discussed the odyssey that he had walked through. He stated that he did exactly what the Mayor tried to do this evening, reduce the numbers and determine what was and was not fair. He advised that he had trouble expending so much energy

and time on this particular subject when they had professionals in front of them who had come up with the numbers. He added that he was not comfortable even if they came back the next time that the Council would agree on that number.

A roll call vote was taken with the following results:

Councilmember Leger	Aye
Councilmember Brown	Aye
Vice Mayor Hansen	Aye
Mayor Schlum	Aye
Councilmember Dickey	Nay
Councilmember Contino	Aye
Councilmember Archambault	Nay

The motion **CARRIED** by majority vote (5-2) with Councilmembers Dickey and Archambault voting Nay.

AGENDA ITEM #10 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER. ITEMS LISTED BELOW ARE RELATED ONLY TO THE PROPRIETY OF (i) PLACING SUCH ITEMS ON A FUTURE AGENDA FOR ACTION OR (ii) DIRECTING STAFF TO CONDUCT FURTHER RESEARCH AND REPORT BACK TO THE COUNCIL:

A. NONE.

AGENDA ITEM #11 – SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE TOWN MANAGER.

Town Manager Rick Davis informed the Council that the Town played host to two very prominent land developers in Fountain Hills and they had shared their downtown Vision with them. He said that they had been impressed not only with the planning but also with the appearance of the community and saw the possibilities of locating in the downtown area. He added that contacts continued to be made and there was the possibility of a third visit in the future. He noted that the Vision Plan in the future would be a key instrument in attracting economic development.

Mayor Schlum commented on the great success of the Homecoming Parade and thanked all of the volunteers and staff for their efforts. He noted that the Homecoming game would take place on Friday evening and added that the Ballet Under the Stars and Oktoberfest were also huge successes.

AGENDA ITEM #12 – ADJOURNMENT.

Councilmember Contino **MOVED** that the Council adjourn the meeting and Councilmember Archambault **SECONDED** the motion, which **CARRIED UNANIMOUSLY** (7-0). The meeting adjourned at 9:05 p.m.

TOWN OF FOUNTAIN HILLS

By _____
Mayor Jay T. Schlum

ATTEST AND
PREPARED BY:

Bevelyn J. Bender, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Session held by the Town Council of Fountain Hills in the Town Hall Council Chambers on the 1st day of October, 2009. I further certify that the meeting was duly called and that a quorum was present.

Dated this 15th day of October 2009.

Bevelyn J. Bender, Town Clerk